



ITG News

Keeping First Nations Informed



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Message From The Director

As many of you are aware, we have been working on the development of an IRS/Tribal Consultation Policy for the past 18 months. We have followed a structured process that was suggested by the Advisory Committee to the Tax Exempt Government Entities Commissioner. That process included a series of 12 listening meetings and a comment period on the discussions that took place at those meetings.

I am pleased to announce that we have taken another step forward in the evolution of the policy, through the formation of a volunteer drafting group that included twelve tribal representatives. This group met in July and completed an outline of a draft policy that was heavily reliant on the feedback from the previous listening meetings. The outline was posted to our web site at www.irs.gov/tribes, along with a listing of the drafting committee members. Feedback was solicited, which could be provided to any member.

The drafting group will be meeting in late October to finalize the language in the draft policy. We hope to have the TEGE Commissioner meet with the group at that time, after which the policy will be subjected to a formal review.

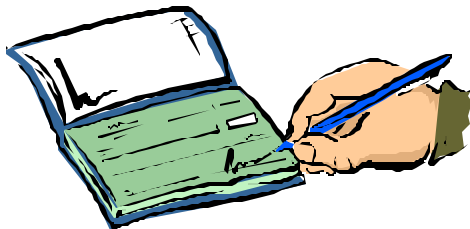
While we have been very deliberate in the creation of the IRS/Tribal Consultation Policy, it is our hope that the steps we have taken will lead to a policy that works well for everyone and enables maximum dialogue to occur wherever possible. If you have any questions or suggestions, please feel free to contact any of the members of the drafting group. Their names and contact information are listed on page 4 of this newsletter.

Christie Jacobs



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\$\$\$ REMINDER \$\$\$

When writing checks to the Internal Revenue Service, please make the check payable to "**United States Treasury**".

Federal Tax Calendar for Fourth Quarter 2004

October 2004

SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	4	5	6 * Make a deposit for 9/29-10/1	7	8 * Make a deposit for 10/2-10/5	9
10	11	12 Employees report September tip income to employers if greater than \$20	13	14 * Make a deposit for 10/6-10/8	15 * Make a deposit for 10/9-10/12 ** Make a deposit for September if under the monthly deposit rule	16
17	18	19	20 * Make a deposit for 10/13-10/15	21	22 * Make a deposit for 10/16-10/19	23
24	25	26	27 * Make a deposit for 10/20-10/22	28	29 * Make a deposit for 10/23-10/26	30
31						

November 2004

SUN	MON	TUE	WED	THU	FRI	SAT
	1 Deposit Federal Un- employment Tax through September if greater than \$100	2	3 * Make a deposit for 10/27-10/29	4	5 * Make a deposit for 10/30-11/2	6
7	8	9	10 * Make a deposit for 11/3-11/5 Employees report October tip income to employers if greater than \$20	11	12	13
14	15 * Make a deposit for 11/6-11/9 ** Make a deposit for October if under the monthly deposit rule	16	17 * Make a deposit for 11/10-11/12	18	19 * Make a deposit for 11/13-11/16	20
21	22	23	24 * Make a deposit for 11/17-11/19	25	26	27
28	29 * Make a deposit for 11/20-11/23	30				

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.

December 2004

SUN	MON	TUE	WED	THU	FRI	SAT
			1 * Make a deposit for 11/24-11/26	2	3 * Make a deposit for 11/27-11/30	4
5	6	7	8 * Make a deposit for 12/1-12/3	9	10 * Make a deposit for 12/4-12/7 Employees report November tip income to employers if greater than \$20	11
12	13	14	15 * Make a deposit for 12/8-12/10 ** Make a deposit for November if under the monthly deposit rule	16	17 * Make a deposit for 12/11-12/14	18
19	20	21	22 * Make a deposit for 12/15-12/17	23	24	25
26	27 * Make a deposit for 12/18-12/21	28	29 * Make a deposit for 12/22-12/24	30	31	

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed

Return Filing Dates

November 1st

File Form 941 for the third quarter of 2004 (if tax is deposited in full and on time, file by November 10th)
File Form 730 and pay the tax on applicable wagers accepted during September.

November 30th

File Form 730 and pay the tax on applicable wagers accepted during October.

January 3rd, 2005

File Form 730 and pay the tax on applicable wagers accepted during November.

Tribal Consultation Policy - Drafting Group Members

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Magnetic Media Specifications for Title 31 Reports are Updated

The Financial Crimes Enforcement Network has updated the Magnetic Media Filing specifications for the various forms required under Title 31. This includes FinCEN Forms 102 and 103, which are the common forms filed by tribal casinos.

The requirements for magnetic media filing of the Currency Transaction Report by Casinos (FinCEN Form 103) are contained in a 46 page document that can be accessed at http://www.fincen.gov/magmed_ctr.pdf. The specifications for Suspicious Activity Reports (SARCs) are reflected in a 29 page document that can be accessed at http://www.fincen.gov/magmed_sarc.pdf.

The specification changes are effective February 1, 2005.

Abusive Schemes Continue to be an Area of Focus

The Office of Indian Tribal Governments continues to focus on combating abusive schemes that are surfacing in Indian country. Our intent is to take actions that will protect tribal assets and minimize financial risk to the tribes and tribal members. Many schemes occur without the direct knowledge of the tribe, and/or without an understanding of the consequences by the tribe. They are a major concern for both the Service and Tribal governments who are struggling to protect their sovereignty and fledgling enterprises, and maintain the support of Congress and the general public. These concerns are magnified by increasing attempts by promoters to use the tax and legal status of tribes to shelter transactions from taxation and oversight.

Risks can arise when a promoter gains a foothold within a tribal enterprise and convinces a tribe to implement programs that often sound "too good to be true." Recent examples we have uncovered include improper deferrals of per capita distributions to members, improper practices involving employee leasing entities, and embezzlement of tribal funds.

We are actively seeking to partner with tribes to address these issues. Our web site was recently updated to include a special section on abusive schemes, along with a link for reporting them via e-mail or in writing. We have also included brief descriptions of the specific areas currently under review, and we will be expanding that section in the near future.

We appreciate the assistance of several tribes and tribal organizations that have been supporting this effort, and we welcome others to join with us to ensure that we can jointly address these problems as quickly as possible. Specific questions or concerns relating to abusive schemes can be directed to Ken Voght at (716) 686-4860, or via e-mail at tege.itg.schemes@irs.gov.

Casino Employees – What Types of ID Can You Accept?

Are you, as an employee, familiar with the minimum internal control standards (MICS) at the casino where you work? If not, you should become familiar with them since your employer may require you to verify identification of customers when completing Form W-2G, Certain Gambling Winnings. The casino may be penalized if the customer provides incorrect information.

A casino has a reporting requirement for Title 31 Money and Finance, Part 103, Bank Secrecy Act. The Code of Federal Regulations 31.103.28 states in part, "Before concluding any transaction with respect to which a report is required, ...a financial institution shall verify and record the name and address of the individual.... Verification of the identity... shall be made by the examination of a document... that is normally acceptable within the banking community as a means of identification when cashing checks for non-depositors." You **must** terminate a transaction under Title 31 if a customer refuses to present ID.

What forms of valid identification can casino floor personnel rely upon? Valid ID is considered to be any form of government issued identification. Examples of official government issued ID can include but are not limited to:

- Current driver's license
- State issued identification card
- Tribal issued identification card
- Passport
- Alien registration card
- Military identification

Other forms of identification may include a voter's registration card or a social security card.

Is an expired driver's license (DL) considered valid ID? In most states an expired DL is not a valid form of identification, but if the customer can present an alternate form of ID along with the expired DL, then it would be acceptable as a second form of ID.

What if the customer has no identification of any kind? Items that can be used as additional ID could be employment ID, a pay stub that contains name, address and social security number, a photo credit card or player's club card (if updated periodically).

A Form W-9, *Request for Taxpayer Identification Number and Certification*, may be used by the Casino. The customer completes the Form W-9 testifying that the name and SSN they have provided is correct.

What if someone refuses to produce identification? If the customer provides their name and address but refuses to provide a social security number (SSN) you should inform them their winnings will be subject to backup withholding.

Informing your customer of the requirements of the law increases compliance.

Previous editions of the newsletter may be found at www.irs.gov/tribes

January topics include:

Changes to Form 941

Annualization of Form 941
Filing for Small Entities

Update on Consultation Policy

Abusive Schemes Update

Results From The 2004 Customer Satisfaction Survey

What an Employer Needs to Know About Forms W-4

Treatment of Taxable Per Capita Gaming Distributions to Minors

To add your name or e-mail address to our mailing list, please contact us via e-mail at Carol.A.Czolowski@irs.gov, or call Carol Czolowski at (801) 620-5048

Income Derived from the Land

General principles applicable to the federal income tax treatment of income received by Indians are described in [Revenue Ruling 67-284, 1967-2 C.B. 55](#). Five tests must be met for income derived from the land to be excludable:

- the land in question must be held in trust by the United States Government;
- such land must be restricted and allotted and held for an individual non-competent* Indian;
- the income must be derived directly from the land;
- the statute, treaty or other authority involved must evidence congressional intent that the allotment be used as a means of protecting the Indian until such time as he becomes competent**; and
- the authority in question must contain language indicating clear congressional intent that the land, until conveyed in fee simple to the allottee, is not to be subject to taxation.

Payments derived directly from the land include such items as:

- rentals (including crop rentals);
- royalties;
- proceeds from the sale of natural resources on the land and from the sale of cattle and other livestock raised on the land; and
- income from the sale of crops grown on the land or from the use of the land for grazing purposes. ([Revenue Ruling 56-342, 1956-2 C.B. 20](#), as amplified by [Revenue Ruling 62-16, 1962-1 C.B. 7](#))

Payments made to non-competent Indians under programs administered by the Department of Agriculture's Stabilization and Conservation Service are income "derived directly from the land" and are excludable from gross income. ([Revenue Ruling 69-289, 1969-1 C.B. 34](#))

*Non-competent Indian - also referred to as a "restricted" Indian - is simply used to denote an Indian's inability to hold fee simple title to trust land. This status generally exempts from federal income tax any income "directly derived from the land."

**Competent Indian - also referred to as an "unrestricted" Indian - denotes an Indian's ability to hold fee simple title to trust land. This status generally subjects to federal income tax the income that is "directly derived" from the land.

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- **Write: Internal Revenue Service**

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